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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,143	09/24/2003	Michiel Peter Oderwald	Vereenigde P59US	9163

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EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,143

Applicant(s)

ODERWALD ET AL.

Examiner

Árpád Fábián Kovács

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 443105
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Anguiano (4095391).

Prior art discloses:

Claims 1 & 9:

Bunching apparatus comprising:

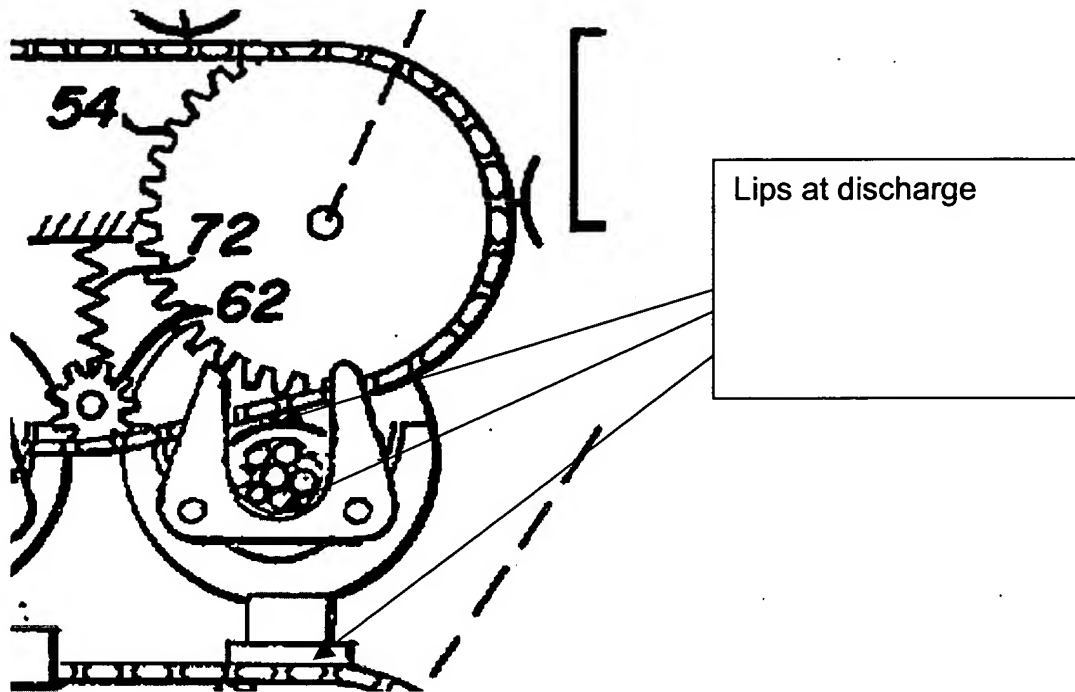
A supply mechanism having a pair of rollers (104, 96) parallel, surfaces of revolution at least substantially touch each other (fig 1), a receiving mechanism with a flexible band (38), a gripper having a pair of fingers (34), at least a part of flexible band is tensioned between the fingers (see fig 1, at 38, when stems ref 36 are loaded on it) capable of gripping together stems (fig 1 after the first left gripper showing stems gripped together);

Claims 2 & 5 & 10:

The band ends are secured on the gripper between the fingers (col. 67-68); multiple bands & fingers (fig 1);

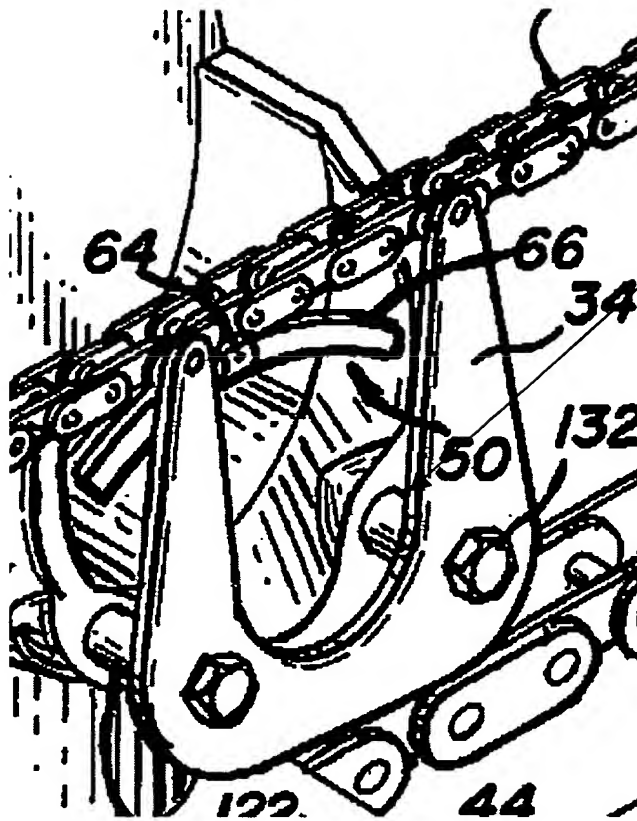
Claim 3:

Pair of lips resiliently pressing **substantially** against each other at discharge & stems pushed away:



claims 4, 12:

an upholder with a point of connection:



Upholder (inside the finger)
connected to a part of the band

claim 6:

movement mechanism (motor 24 & transmission 68), receiving & tying positions (fig 1,
2nd left is the receiving);

As applied to claim(s) 13-14, in view of the structure disclosed/taught by
Anguiano, the method of operating/using the device is inherent since it is the normal
and logical manner in which the device is used.

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3. Claims 1-10, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gularte (4041672).

Gularte discloses every element shown by Anguiano above: clamping/gripper fingers (60, 70), rollers (40, 44, 46), the operator can tension a band (98) between the fingers and the stalks can further tension it (col. 6, ln 8-13).

As applied to claim(s) 13-14, in view of the structure disclosed/taught by Gularte, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gularte (4041672).

Gularte discloses every element shown by Anguiano above, in addition to that shows the gear wheels (40 or 44, see fig 7) coupled to the fingers (60, 70) to transmit an closing push force to the finger (via element 88), and at least one spring element (76 or 84) to move ends of the fingers apart from each other when the gripper opening push force is not exerted (compare fig 2 and fig 3).

Gularte discloses the claimed invention except for reversal of closing & opening of the fingers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the way the fingers close/open, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.-

Response to Arguments

6. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK